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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,956	03/21/2000	Bryan M. Eagle III	11459/1	6873
23838	7590	07/15/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,956

Applicant(s)

EAGLE, BRYAN M.

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 129, 140 and 141 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 129, 140 and 141 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. In the amendment filed 4/25/05, the following has occurred: Claims 129 and 140 have been amended. Now claims 129, 140 and 141 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 129, 140, and 141 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,711,548 to Rosenblatt, for substantially the same reasons given in the previous Office Action (dated 1/25/05). Further reasons appear below.

(A) Claim 141 has not been amended, and is rejected for the same reasons given in the previous Office Action (dated 1/25/05), and incorporated herein. Further reasons appear hereinbelow.

(B) Claims 129 and 140 have been amended to now recite the steps of:

“communicating receiving reservation bids from one or more independent passengers to owners of private aircraft;

receiving any changes in said predetermining reservation criteria from owners of the private aircraft and communicating said changes to each of said independent passengers associated with the bids;

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said reservation service to communicate received reservation bids electronically to owners of said private airplanes, said reservation service receiving from each owner any changes in flight availabilities including constraints on total payment”.

As per these limitations, Rosenblatt teaches that all participants are notified in advance of a proposed schedule as soon as the flight has been booked (see: column 6, lines 64-66). In addition, Rosenblatt teaches that the directory service compares seating capacity of assigned aircraft with the passenger booking totals to determine if extra seats (44, Fig. 2) are available and if any extra seats are available the seats are offered (46, Fig. 2) to the general public (see: column 6, lines 42-52). Furthermore, Rosenblatt teaches as more passenger are booked, the directory service updates (50, Fig. 2) its listings to indicate the remaining number of seats (see: column 6, lines 56-60). The Examiner considers any updates to seat availability to the directory service and the notification to all participants of proposed schedules as communicating changes in the predetermining reservation criteria on the owners behalf since the aircraft owners have subscribed to the directory service to make their aircraft available to air travelers (see: column 4, lines 47-50). Moreover, Rosenblatt teaches that each independent charter services have its own cost structures that govern its charges for charter flights (see: column 7, lines 40-42).

Response to Arguments

4. Applicant's arguments filed 4/25/05 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 4/25/05.

At pages 5-6 of the 4/25/05 response, Applicant argues that the Rosenblatt system merely identifies which type of aircraft will be utilized for a given assignment where the Applicant

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invention is a bidding system where a passenger bids for seats on a corporate jet or other aircraft for a particular schedule and departure time.

In response, it is respectfully submitted that the Rosenblatt reference teaches that the directory service (12, Fig. 1) compares seating capacity of assigned aircraft with the passenger booking totals to determine if extra seats (44, Fig. 2) are available and if any extra seats are available the seats are offered (46, Fig. 2) to the general public via a web site or other appropriate means and most typically includes flight information, number of seats and pricing information (see: column 6, lines 42-52). In addition, Rosenblatt teaches as more passenger are booked, the directory service updates (50, Fig. 2) its listings to indicate the remaining number of seats (see: column 6, lines 56-60). Rosenblatt also teaches that each independent charter services have its own cost structures that govern its charges for charter flights (see: column 7, lines 40-42). Furthermore, Rosenblatt teaches a minimum passenger booking per flight which represents a break-even point for operating cost vs. fare revenue, associated with selection of the aircraft type for a given trip assignment (see: column 10, lines 26-30). This clearly discloses that as passengers request and book travel reservations and the directory service updates seat availability posting the remaining seat on the Internet, aircraft owners move closer to their break-even point for operating the aircraft. As such, the system described in Rosenblatt does more than match a passenger with an aircraft; it uses updated seat availability information to project ticket prices and a break-even point for the aircraft owner to fly the aircraft.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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